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In re Application of: KATADA, et al. :
Application No.: 10/578,782 :
PCT No.: PCT/JP04/17117 :
Int. Filing Date: 11 November 2004 :
Priority Date: 11 November 2003 :
Attorney Docket No.: 290293US40PCT :
For: EXPANSION TANK DEVICE, PROCESS :
FOR FABRICATING EXPANSION TANK :
DEVICE, AND LIQUID COOLING :
RADIATOR :

DECISION

This decision is issued in response to applicant's "Petition to Correct Inventorship under 37 CFR 1.497(d)" filed 29 June 2009.

BACKGROUND

On 11 November 2004, applicant filed international application no. PCT/JP04/17117 which claimed a priority date of 11 November 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 19 May 2005. The international application named Yoshinori Katada and Kazuo Taga as applicants/inventors. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 11 May 2006.

On 09 May 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the basic national fee, an application data; and a copy of the international application.

On 15 January 2009, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 20 March 2009, applicant filed "Petition to Correct Inventorship under 37 CFR 1.497(d)" which included a declaration executed by: Yoshinori Katada; Kazuo Taga; Tomotaka Ishida; and Sakae Kitajo. In a decision dated 19 May 2009, applicant's request to add Tomotaka Ishida and Sakae Kitajo as inventors was dismissed without prejudice.

On 29 June 2009, applicant filed the present renewed submission under 37 CFR 1.497(d).

DISCUSSION

Applicant requests to add Tomotaka Ishida and Sakae Kitajo as inventors to the present application. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires: (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part; (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a); (3) the fee set forth in 37 CFR 1.17(i); and (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Items (1); (2); and (3) have been previously satisfied.

Regarding item (4), applicant has submitted a document entitled "Consent of Assignee(s) to Change of Inventorship." This document states that the assignees consent to the addition of Tomotaka Ishida and Sakae Kitajo as inventors herein. However, pursuant to 37 CFR 1.497(d)(3), the consent of the assignee must be submitted in compliance with 37 CFR 3.73(b) (see MPEP 201.03(II)(D)). Here, the statement executed by the assignee does not comply with the requirements of 37CFR 3.73(b)(2). Specifically, the person (Hiroyuki Okazaki) signing the "Consent of Assignee(s) to Change of Inventorship" does not have apparent authority to act on behalf of the assignee or states that he is authorized to act on behalf of the assignee. (It is noted that Hirokazu Iwasaki previously indicated that he/she is empowered to act on behalf of the assignee, Showa Denko K.K.)

Because applicant has not satisfied all the requirements of 37 CFR 1.497(d), inventors Tomotaka Ishida and Sakae Kitajo cannot be added to the application on the present record.

CONCLUSION

For the reasons discussed above, applicant's request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to:
Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450,
Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the
Office of PCT Legal Administration.



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